

MONTANA LEGISLATIVE HISTORY

Chapter 351 19 77

Bill H 537 S _____

Original bill & history / C

H. Committee on Local Government

Hearing Date(s) Feb 09 ✓ C

Feb 11 ✓ C

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_____ C

Date Out Feb 11 ✓ C

S. Committee on Local Government

Hearing Date(s) Mar 27 ✓ C

Mar 28 ✓ C

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Mar 28 ✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

1 H BILL NO. 537
2 INTRODUCED BY Pauck

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE IN THE
5 ALTERNATIVE FORMS OF LOCAL GOVERNMENT FOR THE ELECTION OF
6 MUNICIPAL COMMISSIONERS BY A PLAN INVOLVING ELECTION AT
7 LARGE AND NOMINATION THAT MAY NOT PRECLUDE THE POSSIBILITY
8 OF THE MAJORITY OF THE ELECTORS NOMINATING CANDIDATES FOR
9 THE MAJORITY OF THE SEATS ON THE COMMISSION FROM PERSONS
10 RESIDING IN THE DISTRICT OR DISTRICTS WHERE THE MAJORITY OF
11 THE ELECTORS RESIDE; AMENDING SECTIONS 47A-3-203, 47A-3-204,
12 47A-3-205, 47A-3-206, AND 47A-3-208, R.C.M. 1947."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 47A-3-203, R.C.M. 1947, is amended
16 to read as follows:

17 "47A-3-203. Commission-executive form. (1) The
18 commission-executive form (which may be called the
19 "council-executive", the "council-mayor", or the
20 "commission-mayor" form) consists of an elected commission
21 (which may be referred to as the "council" and one elected
22 executive (who may be referred to as the "mayor") who is
23 elected at large.

24 (2) The executive shall:

(a) enforce laws, ordinances, and resolutions;

1 (b) perform duties required of him by law, ordinance,
2 or resolution;

3 (c) administer affairs of the local government;

4 (d) carry out policies established by the commission;

5 (e) recommend measures to the commission;

6 (f) report to the commission on the affairs and
7 financial condition of the local government;

8 (g) execute bonds, notes, contracts, and written
9 obligations of the commission, subject to the approval of
10 the commission;

11 (h) report to the commission as the commission may
12 require;

13 (i) attend commission meetings and may take part in
14 discussions;

15 (j) execute the budget adopted by the commission;

16 (k) appoint, with the consent of the commission, all
17 members of boards; except, the executive may appoint without
18 the consent of the commission temporary advisory committees
19 established by the executive.

20 (3) The plan of government submitted to the qualified
21 electors shall further define the structural characteristics
22 of the form by including one item from each of the choices
23 listed below:

24 (a) The executive:

25 (i) shall appoint one or more administrative

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1 assistants to assist him in the supervision and operation of
2 the local government. Such administrative assistants shall
3 be answerable solely to the executive; or

4 (ii) may appoint one or more administrative assistants
5 to assist him in the supervision and operation of the local
6 government. Such administrative assistants shall be
7 answerable solely to the executive.

8 (b) The executive may:

9 (i) appoint and remove all employees of the local
10 government; or

11 (ii) appoint and remove, with the consent of a majority
12 of the commission, all employees of the local government; or

13 (iii) appoint, with the consent of a majority of the
14 commission, all department heads. The executive may remove
15 department heads and may appoint and remove all other
16 department employees; or

17 (iv) appoint and remove, with the consent of a majority
18 of the commission, all department heads. The executive may
19 appoint and remove all other employees of the local
20 government.

21 (c) The executive may:

22 (i) veto ordinances and resolutions, subject to
23 override by a majority plus one of the whole number of the
24 commission; or

25 (ii) veto ordinances and resolutions, subject to

1 override by a two-thirds vote of the commission; or

2 (iii) sign all ordinances and resolutions with no veto
3 power.

4 (d) The executive may:

5 (i) prepare the budget and present it to the
6 commission for adoption; or

7 (ii) prepare the budget in consultation with the
8 commission and department heads.

9 (e) The executive may:

10 (i) exercise control and supervision of the
11 administration of all departments and boards; or

12 (ii) exercise control and supervision of all
13 departments and boards to the degree authorized by ordinance
14 of the commission.

15 (f) A financial officer (who may be called the
16 "treasurer"):

17 (i) shall be elected; or

18 (ii) shall be appointed by the executive with the
19 consent of the council; or

20 (iii) shall be selected as provided by ordinance; or

21 (iv) may, at the discretion of the commission, be
22 selected as provided by ordinance.

23 (g) The commission shall be:

24 (i) elected at large; or

25 (ii) elected by districts in which candidates must

reside and which are apportioned by population; or

~~(iii) nominated by districts in which candidates must reside and which are apportioned by population, but elected at large elected at large and nominated by a plan of nomination that may not preclude the possibility of the majority of the electors nominating candidates for the majority of the seats on the commission from persons residing in the district or districts where the majority of the electors reside; or~~

(iv) elected by any combination of districts in which candidates must reside and which are apportioned by population, and at large.

(h) Local government elections shall be conducted on a:

(i) partisan basis as provided in this title; or

(ii) nonpartisan basis as provided in this title.

(i) The commission shall have a chairman who shall be:

(i) elected by the members of the commission from their own number for a term established by ordinance; or

(ii) selected as provided by ordinance.

(j) The presiding officer of the commission shall be:

(i) the chairman of the commission who may vote as other members of the commission; or

(ii) the executive who may vote as the commissioners;

or

(iii) the executive who shall decide all tie votes of the commission, but shall have no other vote. The chairman of the commission shall preside if the executive is absent; or

(iv) the executive, but he may not vote.

(k) Commission members shall be elected for:

(i) concurrent terms of office; or

(ii) overlapping terms of office.

(l) The size of the commission, which shall be a number not less than three (3), shall be established when the form is adopted by the voters, and;

(i) community councils of at least three (3) members shall be elected within each district to advise the commissioner from that district. Local governments conducting elections at large shall district according to population for the purpose of electing community councils; or

(ii) community councils to advise commissioners may be authorized by ordinance.

(m) The term of office of elected officials may not exceed four (4) years, and shall be established when the form is adopted by the voters.

(4) The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing:

(a) general government powers; or

(b) self-government powers."

Section 2. Section 47A-3-204, R.C.M. 1947, is amended to read as follows:

"47A-3-204. Commission-manager form. (1) The commission-manager form (which may be called the "council-manager" form) consists of an elected commission (which may be called the "council") and a manager appointed by the commission who shall be the chief administrative officer of the local government. The manager shall be responsible to the commission for the administration of all local government affairs placed in his charge by law, ordinance, or resolution.

(2) The manager shall be appointed by the commission for an indefinite term on the basis of merit only, and removed only by a majority vote of the whole number of the commission.

(3) The manager shall:

(a) enforce laws, ordinances, and resolutions;

(b) perform the duties required of him by law, ordinance, or resolution;

(c) administer the affairs of the local government;

(d) direct, supervise, and administer all departments, agencies and offices of the local government unit except as otherwise provided by law or ordinance;

(e) carry out policies established by the commission;

(f) prepare the commission agenda;

(g) recommend measures to the commission;

(h) report to the commission on the affairs and financial condition of the local government;

(i) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;

(j) report to the commission as the commission may require;

(k) attend commission meetings and may take part in the discussion, but he may not vote;

(l) prepare and present the budget to the commission for its approval and execute the budget adopted by the commission;

(m) appoint, suspend, and remove all employees of the local government except as otherwise provided by law or ordinance. Employees appointed by the manager and his subordinates shall be administratively responsible to the manager;

(n) appoint members of temporary advisory committees established by the manager.

(4) Neither the commission nor any of its members may dictate the appointment or removal of any employee whom the manager or any of his subordinates are empowered to appoint.

(5) Except for the purpose of inquiry or investigation

1 under this title, the commission or its members shall deal
2 with the local government employees who are subject to the
3 direction and supervision of the manager, solely through the
4 manager, and neither the commission nor its members may give
5 orders to any such employee, either publicly or privately.

6 (6) The plan of government submitted to the qualified
7 electors shall further define the structural characteristics
8 of the form by including one item from each of the choices
9 listed below:

10 (a) All members of boards, other than temporary
11 advisory committees established by the manager, shall be
12 appointed by:

13 (i) the chairman with the consent of the commission;
14 or

15 (ii) the manager with the consent of the commission; or
16 (iii) the commission.

17 (b) The commission shall be:

18 (i) elected at large; or

19 (ii) elected by districts in which candidates must
20 reside and which are apportioned by population; or

21 ~~(iii) nominated by districts in which candidates must~~
22 ~~reside and which are apportioned by population, but elected~~
23 ~~at large~~ elected at large and nominated by a plan of
24 nomination that may not preclude the possibility of the
25 majority of the electors nominating candidates for the

1 majority of the seats on the commission from persons
2 residing in the district or districts where the majority of
3 the electors reside; or

4 (iv) elected by any combination of districts in which
5 candidates must reside and which are apportioned by
6 population, and at large.

7 (c) Local government elections shall be conducted on
8 a:

9 (i) partisan basis as provided in this title; or

10 (ii) nonpartisan basis as provided in this title.

11 (d) The chairman of the commission shall be:

12 (i) elected by the members of the commission from
13 their own number for a term established by ordinance; or

14 (ii) elected by the qualified electors for a term of
15 office; or

16 (iii) selected as provided by ordinance.

17 (e) Commission members shall be elected for:

18 (i) concurrent terms of office; or

19 (ii) overlapping terms of office.

20 (f) The size of the commission, which shall be a
21 number of not less than three (3), shall be established when
22 the form is adopted by the voters, and:

23 (i) community councils of at least three (3) members
24 shall be elected within each district to advise the
25 commissioner from that district. Local governments

1 conducting elections at-large shall district according to
2 population for the purpose of electing community councils;
3 or

4 (ii) community councils to advise commissioners may be
5 authorized by ordinance.

6 (g) The term of office of elected officials may not
7 exceed four (4) years, and shall be established when the
8 form is adopted by the voters.

9 (7) The plan of government submitted to the qualified
10 electors shall determine the powers of the local government
11 unit by authorizing:

- 12 (a) general government powers; or
- 13 (b) self-government powers."

14 Section 3. Section 47A-3-205, R.C.M. 1947, is amended
15 to read as follows:

16 "47A-3-205. Commission form. (1) The commission form
17 consists of an elected commission (which may also be called
18 the "council") and other elected officers as provided in
19 this section. All legislative, executive, and
20 administrative powers and duties of the local government not
21 specifically reserved by law or ordinance to other elected
22 officers shall reside in the commission. The commission
23 shall appoint the heads of departments and other employees,
24 except for those appointed by other elected officials.
25 Cities and towns which adopt this form may distribute by

1 ordinance the executive and administrative powers and duties
2 into departments headed by individual commissioners.

3 (2) The plan of government submitted to the qualified
4 electors shall further define the structural characteristics
5 of the form by including one item from each of the choices
6 listed below:

7 (a) The commission shall be:

- 8 (i) elected at large; or
- 9 (ii) elected by districts in which candidates must
10 reside and which are apportioned by population; or

11 ~~(iii) nominated by districts in which candidates must~~
12 ~~reside and which are apportioned by population; but elected~~
13 ~~at-large elected at large and nominated by a plan of~~
14 ~~nomination that may not preclude the possibility of the~~
15 ~~majority of the electors nominating candidates for the~~
16 ~~majority of the seats on the commission from persons~~
17 ~~residing in the district or districts where the majority of~~
18 ~~the electors reside; or~~

19 (iv) elected by any combination of districts in which
20 candidates must reside and which are apportioned by
21 population, and at large.

22 (b) Local government elections shall be conducted on
23 a:

- 24 (i) partisan basis as provided in this title; or
- 25 (ii) nonpartisan basis as provided in this title.

(c) The chairman of the commission, who may be referred to as the "mayor", shall be the presiding officer of the commission. All members of boards and committees shall be appointed by the chairman with the consent of the commission. The chairman shall be recognized as the head of the local government unit and may vote as other members of the commission. The chairman shall be:

(i) elected by the members of the commission from their own number for a term established by ordinance; or

(ii) selected as provided by ordinance; or

(iii) elected directly by the voters for a term established by ordinance.

(d) The commission:

(i) shall appoint one or more administrative assistants to assist them in the supervision and operation of the local government; or

(ii) may appoint one or more administrative assistants to assist them in the supervision and operation of the local government.

(e) Commission members shall be elected for:

(i) concurrent terms of office; or

(ii) overlapping terms of office.

(f) The size of the commission, which shall be a number of not less than three (3), shall be established when the form is adopted by the voters, and:

(i) community councils of at least three (3) members shall be elected within each district to advise the commissioner from that district. Local governments conducting elections at-large shall district according to population for the purpose of electing community councils; or

(ii) community councils to advise commissioners may be authorized by ordinance.

(g) The term of office of elected officials may not exceed four (4) years, except the term of office for commissioners in counties adopting the form authorized by Article XI, section 3 (2), of the Montana constitution, may not exceed six (6) years. Terms of office shall be established when the form is adopted by the voters.

(3) In county and consolidated local governments, the plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including one item from each of the choices listed below. The officers shall have the powers and duties established by ordinance. After the establishment of any office, the commission may consolidate, as provided by law, two or more of the offices.

(a) A legal officer (who may be called the "county attorney"):

(i) shall be elected; or

1 (ii) shall be appointed by the local government
 2 commission; or
 3 (iii) shall be appointed by the chairman of the local
 4 government commission; or
 5 (iv) shall be selected as provided by ordinance; or
 6 (v) may at the discretion of the commission be
 7 selected as provided by ordinance; or
 8 (vi) shall not be included in this form as a separate
 9 office.
 10 (b) A law enforcement officer (who may be called the
 11 "sheriff"):
 12 (i) shall be elected; or
 13 (ii) shall be appointed by the local government
 14 commission; or
 15 (iii) shall be appointed by the chairman of the local
 16 government commission; or
 17 (iv) shall be selected as provided by ordinance; or
 18 (v) may at the discretion of the commission be
 19 selected as provided by ordinance; or
 20 (vi) shall not be included in this form as a separate
 21 office.
 22 (c) A clerk and recorder:
 23 (i) shall be elected; or
 24 (ii) shall be appointed by the local government
 25 commission; or

1 (iii) shall be appointed by the chairman of the local
 2 government commission; or
 3 (iv) shall be selected as provided by ordinance; or
 4 (v) may at the discretion of the commission be
 5 selected as provided by ordinance; or
 6 (vi) shall not be included in this form as a separate
 7 office.
 8 (d) A clerk of district court:
 9 (i) shall be elected; or
 10 (ii) shall be appointed by the local government
 11 commission; or
 12 (iii) shall be appointed by the chairman of the local
 13 government commission; or
 14 (iv) shall be selected as provided by ordinance; or
 15 (v) may at the discretion of the commission be
 16 selected as provided by ordinance; or
 17 (vi) shall not be included in this form as a separate
 18 office.
 19 (e) A treasurer:
 20 (i) shall be elected; or
 21 (ii) shall be appointed by the local government
 22 commission; or
 23 (iii) shall be appointed by the chairman of the local
 24 government commission; or
 25 (iv) shall be selected as provided by ordinance; or

1 (v) may at the discretion of the commission be
2 selected as provided by ordinance; or

3 (vi) shall not be included in this form as a separate
4 office.

5 (f) A surveyor:

6 (i) shall be elected; or

7 (ii) shall be appointed by the local government
8 commission; or

9 (iii) shall be appointed by the chairman of the local
10 government commission; or

11 (iv) shall be selected as provided by ordinance; or

12 (v) may at the discretion of the commission be
13 selected as provided by ordinance; or

14 (vi) shall not be included in this form as a separate
15 office.

16 (g) A superintendent of schools:

17 (i) shall be elected; or

18 (ii) shall be appointed by the local government
19 commission; or

20 (iii) shall be appointed by the chairman of the local
21 government commission; or

22 (iv) shall be selected as provided by ordinance; or

23 (v) may at the discretion of the commission be
24 selected as provided by ordinance; or

25 (vi) shall not be included in this form as a separate

1 office.

2 (h) An assessor:

3 (i) shall be elected; or

4 (ii) shall be appointed by the local government
5 commission; or

6 (iii) shall be appointed by the chairman of the local
7 government commission; or

8 (iv) shall be selected as provided by ordinance; or

9 (v) may at the discretion of the commission be
10 selected as provided by ordinance; or

11 (vi) shall not be included in this form as a separate
12 office.

13 (i) A coroner:

14 (i) shall be elected; or

15 (ii) shall be appointed by the local government
16 commission; or

17 (iii) shall be appointed by the chairman of the local
18 government commission; or

19 (iv) shall be selected as provided by ordinance; or

20 (v) may at the discretion of the commission be
21 selected as provided by ordinance; or

22 (vi) shall not be included in this form as a separate
23 office.

24 (j) A public administrator:

25 (i) shall be elected; or

1 (ii) shall be appointed by the local government
2 commission; or

3 (iii) shall be appointed by the chairman of the local
4 government commission; or

5 (iv) shall be selected as provided by ordinance; or

6 (v) may at the discretion of the commission be
7 selected as provided by ordinance; or

8 (vi) shall not be included in this form as a separate
9 office.

10 (k) An auditor:

11 (i) shall be elected; or

12 (ii) shall be appointed by the local government
13 commission; or

14 (iii) shall be appointed by the chairman of the local
15 government commission; or

16 (iv) shall be selected as provided by ordinance; or

17 (v) may at the discretion of the commission be
18 selected as provided by ordinance; or

19 (vi) shall not be included in this form as a separate
20 office.

21 (4) Local governments that adopt this form shall have
22 general government powers."

23 Section 4. Section 47A-3-206, R.C.M. 1947, is amended
24 to read as follows:

25 "47A-3-206. Commission-chairman form. (1) The

1 commission-chairman form consists of an elected commission
2 (which may also be referred to as the "council"), and a
3 commission chairman (who may also be referred to as "mayor"
4 or as "president") elected by the members of the commission
5 from their own number.

6 (2) The commission chairman (who may also be referred
7 to as "mayor") shall be elected by the members of the
8 commission from their own number to serve at the pleasure of
9 the commission. He shall: be the presiding officer of the
10 commission, be recognized as the head of the local
11 government unit, have the power to vote as other members of
12 the commission, be the chief executive officer of the local
13 government, and:

14 (a) enforce laws, ordinances, and resolutions;

15 (b) perform duties required of him by law, ordinance,
16 or resolution;

17 (c) administer the affairs of the local government;

18 (d) direct, supervise, and administer all departments,
19 agencies, and offices of the local government, except as
20 otherwise provided by law or ordinance;

21 (e) carry out policies established by the commission;

22 (f) prepare the commission agenda;

23 (g) recommend measures to the commission;

24 (h) report to the commission on the affairs and
25 financial condition of the local government;

1 (i) execute bonds, notes, contracts, and written
2 obligations of the commission, subject to the approval of
3 the commission;

4 (j) report to the commission as the commission may
5 require;

6 (k) attend commission meetings and may take part in
7 discussions;

8 (l) execute the budget adopted by the commission;

9 (m) appoint with the consent of the commission all
10 members of boards and committees; except the chairman may
11 appoint without the consent of the commission temporary
12 advisory committees established by the chairman;

13 (n) appoint with the consent of a majority of the
14 commission all department heads. The chairman may remove
15 department heads and may appoint and remove all other
16 employees;

17 (o) prepare the budget and present it to the
18 commission for adoption;

19 (p) exercise control and supervision over the
20 administration of departments and boards.

21 (3) The plan of government submitted to the qualified
22 electors shall further define the structural characteristics
23 of the form by including one item from each of the choices
24 listed below:

25 (a) The commission shall be:

1 (i) elected at large; or

2 (ii) elected by districts in which candidates must
3 reside and which are apportioned by population; or

4 ~~(iii) nominated by districts in which candidates must~~
5 ~~reside and which are apportioned by population, but elected~~
6 ~~at large elected at large and nominated by a plan of~~
7 ~~nomination that may not preclude the possibility of the~~
8 ~~majority of the electors nominating candidates for the~~
9 ~~majority of the seats on the commission from persons~~
10 ~~residing in the district or districts where the majority of~~
11 ~~the electors reside; or~~

12 (iv) elected by any combination of districts in which
13 candidates must reside and which are apportioned by
14 population, and at large.

15 (b) Local government elections shall be conducted on
16 a:

17 (i) partisan basis as provided in this title; or

18 (ii) nonpartisan basis as provided in this title.

19 (c) The commission chairman:

20 (i) shall appoint one or more administrative
21 assistants to assist him in the supervision and operation of
22 the local government. Such administrative assistants shall
23 be answerable solely to the chairman; or

24 (ii) may appoint one or more administrative assistants
25 to assist him in the supervision and operation of the local

1 government. Such administrative assistants shall be
2 answerable solely to the chairman.

3 (d) Commission members shall be elected for:

4 (i) concurrent terms of office; or

5 (ii) overlapping terms of office.

6 (e) The size of the commission, which shall be a
7 number of not less than five (5), shall be established when
8 the form is adopted by the voters, and:

9 (i) community councils of at least three (3) members
10 shall be elected within each district to advise the
11 commissioner from that district. Local governments
12 conducting elections at-large shall district according to
13 population for the purpose of electing community councils;
14 or

15 (ii) community councils to advise commissioners may be
16 authorized by ordinance.

17 (f) The term of office of elected officials may not
18 exceed four (4) years, and shall be established when the
19 form is adopted by the voters.

20 (4) The plan of government submitted to the qualified
21 electors shall determine the powers of the local government
22 unit by authorizing:

23 (a) general government powers; or

24 (b) self-government powers."

25 Section 5. Section 47A-3-208, R.C.M. 1947, is amended

1 to read as follows:

2 "47A-3-208. Charter form. (1) The purpose of this
3 section is to comply with Article XI, section 5 (1), of the
4 Montana constitution, which provides: "(1) The legislature
5 shall provide procedures permitting a local government unit
6 or combination of units to frame, adopt, amend, revise, or
7 abandon a self-government charter with the approval of a
8 majority of those voting on the question. The procedures
9 shall not require approval of a charter by a legislative
10 body."

11 (2) Charter provisions establishing executive,
12 legislative, and administrative structure and organization
13 are superior to statutory provisions.

14 (3) A charter form of government shall possess
15 self-government powers.

16 (4) Charter form of government shall be established by
17 a charter which is a written document defining the powers,
18 structures, privileges, rights, and duties of the unit of
19 local government and limitations thereon.

20 (5) The charter shall provide for an elected
21 legislative body, called a commission or council, or shall
22 provide for a legislative body comprised of all qualified
23 electors. For elected legislative bodies the charter shall
24 specify the number of members thereof, their term of office,
25 election on a partisan or nonpartisan basis, the grounds for

1 their removal, and the method for filling vacancies.

2 (6) The charter shall provide for the nomination and
3 election of commissions at-large, or by districts in which
4 candidates must reside and which are apportioned by
5 population, or by a combination of districts in which
6 candidates must reside and which are apportioned by
7 population and at large ~~or elected at large and nominated by~~
8 ~~a plan of nomination that may not preclude the possibility~~
9 ~~of the majority of the electors nominating candidates for~~
10 ~~the majority of the seats on the commission from persons~~
11 ~~residing in the district or districts where the majority of~~
12 ~~the electors reside.~~

13 (7) The charter shall specify which official of the
14 local government will be the chief administrative and
15 executive officer, the method of his selection, his term of
16 office, except that it may be at the pleasure of the
17 selecting authority if such officer is not elected by
18 popular vote, the grounds for his removal, and his powers
19 and duties. Notwithstanding the foregoing, the charter may
20 allocate the chief executive and the chief administrative
21 functions among two or more officials specified as above, or
22 the charter may provide that chief executive and
23 administrative functions of the local government will be
24 performed by one or more members of the legislative body.

25 (8) The charter may establish other legislative,

1 administrative, and organizational structures.

2 (9) A charter form of government shall have such
3 officers, departments, boards, commissions, and agencies as
4 are established in the charter, by local ordinance, or
5 required by state law.

6 (10) Charter provisions may not conflict with the
7 provisions of Title 47-A, Part 7 which establish statutory
8 limitations on the powers of self-government units.

9 (11) Charter forms are subject to state laws
10 establishing election, initiative and referendum procedures
11 and charters shall not contain provisions establishing
12 election, initiative and referendum procedures.

13 (12) The charter shall not contain provisions
14 establishing or modifying local court systems.

15 (13) The enumeration of powers in a charter shall not
16 be construed as a limitation or prohibition on the residual
17 or self-governing powers granted by the constitution.

18 (14) The charter may contain prohibitions on the
19 exercise of power by a unit of local government.

20 (15) The charter may include such provisions as may be
21 necessary to permit an orderly transition to the new form of
22 government.

23 (16) The charter shall specify the date on which the
24 charter will take effect, except that provisions may be made
25 for temporary partial effectiveness consistent with an

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1 orderly transition of government.

2 (17) The listing of charter provisions in this section
3 shall not be construed to prevent the inclusion of
4 additional provisions in charters.

5 (18) A charter may be amended only as provided by state
6 law."

-End-

Questions were asked by the committee. It was asked could the local government body could use this money for any purpose and the answer was, the use would be determined by the local governing bodies.

Representative Bradley closed on House Bill 521.

HOUSE BILL 537: Representative South, sponsor, said this bill is a suggestion that was brought to the State Commission on Local Government. They considered the suggestion but did not incorporate it in House Bill 122. However, they did decide it worth hearing in legislature. Further comments are - exhibit 2.

Clyde Peterson, staff member of the State Commission on Local Government, read a letter from Thomas Payne, Professor of Political Science, University of Montana; and member of the State Commission on Local Government - exhibit 3.

There were no opponents.

Questions were asked by the committee. Jensen - will this change boundaries within counties and the answer was no. South - this is amending alternative forms of local government.

Representative South closed on House Bill 537.

The committee went into executive session to consider amendments to House Bill 122.

HOUSE BILL 122: Larry Weinberg explained that Lee Heiman, staff member of State Commission on Local Government, had put together the amendments on the justice of the peace and municipal courts. The first 58 amendments were suggestions from Supreme Court. Mr. Heiman will explain the amendments which are - exhibit 4.

Representative O'Connell moved that amendments 1 through 58 BE ADOPTED. Mr. Heiman said most are noncontroversial. The first four amendments are by the justice of peace and is the first major changes.

Representative Hurwitz moved to have Larry Weinberg prepare an amendment that the justice of the peace salary be set at the local level. There was a brief discussion on who should set the salary. Representative Waldron made a substitute motion to let legislature set the salaries for the justice of the peace. Question, 2 voted YES. Motion failed.

Representative Pistoria came in.

Question was called on Representative Hurwitz motion that salary be set at local level. Motion carried. Representatives Waldron and Ramirez voted NO. (SCR 362)

Representative Ramirez made a substitute motion that amendments 1, 2, 3, and 4 BE NOT ADOPTED. Hurwitz - would like a sub-committee to study this. Gerke - maybe should let go to print

HOUSE BILL 521: - continued

would be an additional amount. Representative Gunderson noted this is enabling legislation and up to Appropriations. Gerke - said the money does more good at the local level, and it has the further advantage that the local governments can decide what to do. Question on substitute motion that HB 521 DO PASS. Roll call vote was taken: 10 voted YES and 6 voted NO. Motion carried. Those voting NO were: Representatives Colburn, Gould, Pistoria, Ramirez, Stobie, and Vinger. Representatives Halvorson and South were not present.

HOUSE BILL 537: Representative Gunderson moved that HB 537 DO PASS. Question, motion carried. Representative Colburn voted NO and Representative Gould passed.

HOUSE BILL 195: Representative O'Connell moved that HB 195 DO PASS. Representative Hurwitz made a substitute motion that HB 195 DO NOT PASS. Question, motion failed. Question was called on Representative O'Connell's motion that HB 195 DO PASS. Representative Ramirez moved to amend the title, line 6, following: "1977", Strike: ", AND \$3,600 A YEAR BEGINNING JULY 1, 1978" and amend page 4, section 1, lines 18 and 19, following: "a year", Strike: "and beginning July 1, 1978, the additional sum of \$3,600 a year". Question, motion carried. Representatives O'Connell, Jensen, Stobie, Gould and Pistoria voted NO. Representative O'Connell made a motion that HB 195 do pass as amended. Motion carried. Representatives Hurwitz, Gerke and Robbins voted NO.

SENATE BILL 64: Representative O'Connell moved that SB 64 DO PASS. Representative Gould made a substitute motion that SB 64 DO NOT PASS. Motion failed. Representative Gould voted YES. Question on Representative O'Connell's motion that SB 64 DO PASS, motion carried. Representatives Stobie and Gould voted NO.

Representative Gunderson will carry SB 64 on the floor of the House.

The meeting adjourned at 6:20 PM.

Respectfully submitted,


HERSHEL M. ROBBINS, Chairman

yb

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 23, 1977

The meeting of the Local Government Committee was called to order by Chairman McCallum on March 23, 1977 at 9:30 a.m. in Room 410 of the State Capitol Building.

ROLL CALL: All members present except Senator Thiessen.

The following visitors were present:

JoAnn Woodgerd	Secretary of State Office
Glen Drake	League of Cities and Towns
Dean Zinnecker	Montana Association of Counties
Darlene Grove	League of Women Voters
Rep. H. Robbins	District #46
Larry Weinberg	Legislative Council
Dale Harris	Self

CONSIDERATION OF HB 537: Representative Carroll South appeared before the Committee and explained that this amends the alternative forms bill that was passed two years ago in the legislature. Currently, there are three county commissioners nominated in three districts but they are elected at large. This amendment would allow a county to include all the rural area in one district and divide the urban area into two districts. This would assure that rural representation would be maintained in any change in local governments.

There were no opponents to HB 537.

DISCUSSION BY COMMITTEE: Would the rural district completely surround the town? Yes, it could also be five or seven districts, not necessarily three. This would also meet the one man-one vote - this has been tested in two states and it would meet it because everyone in the county gets the opportunity to vote on the election. It is an at-large election. This could also be applied to a larger city where there is a large population that is not being represented. The question was asked if the cities would then control the county government because they would have two commissioners? The cities would control it more so without this amendment. This would assure that overpowering of the rural voters would not happen.

CONSIDERATION OF SJR 39: Senator Hazelbaker appeared on behalf of SJR 39. If this Joint Resolution should go to the Priorities Committee he felt that it would be at the top of their list because of the controversial matter in HB 122. These things in HB 122 could be presented to the 1979 Legislature in three, and not more than five, separate bills which would be easier to study than one large volume such as HB 122.

Dean Zinnecker, Montana Association of Counties, stated that the Federal, State and County governments have all been studied. Federal and State have been adopted but local government has not. They feel that the legislature should really know more about local government laws. This might help the legislature to understand the restriction

March 23, 1977

Senator Thiessen moved that HB 801 AS SO AMENDED, BE CONCURRED IN. Seconded by Thomas. Motion carried with Dunkle voting "no".

DISPOSITION OF HOUSE BILL 537: Senator Thomas moved that HB 537 BE CONCURRED IN. Senator Dunkle made a substitute motion that HB 537 ~~BE~~ NOT CONCURRED IN. Motion seconded by Peterson. Senator Thiessen seconded Thomas' motion. Motion carried.

DISPOSITION OF HOUSE BILL 748: Senator Thomas moved that HB 748 BE CONCURRED IN. Motion seconded by Thiessen. Dunkle made a substitute motion that HB 748 BE NOT CONCURRED IN. Story seconded the substitute motion. Substitute motion carried unanimously.



Senator George McCallum, Chairman

HOUSE BILL NO. 537

INTRODUCED BY SOUTH

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE IN THE
ALTERNATIVE FORMS OF LOCAL GOVERNMENT FOR THE ELECTION OF
~~MUNICIPAL~~ LOCAL GOVERNMENT COMMISSIONERS BY A PLAN INVOLVING
ELECTION AT LARGE AND NOMINATION THAT MAY NOT PRECLUDE THE
POSSIBILITY OF THE MAJORITY OF THE ELECTORS NOMINATING
CANDIDATES FOR THE MAJORITY OF THE SEATS ON THE COMMISSION
FROM PERSONS RESIDING IN THE DISTRICT OR DISTRICTS WHERE THE
MAJORITY OF THE ELECTORS RESIDE; AMENDING SECTIONS 47A-3-203,
47A-3-204, 47A-3-205, 47A-3-206, AND 47A-3-208, R.C.M.
1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 47A-3-203, R.C.M. 1947, is amended
to read as follows:

"47A-3-203. Commission-executive form. (1) The
commission-executive form (which may be called the
"council-executive", the "council-mayor", or the
"commission-mayor" form) consists of an elected commission
(which may be referred to as the "council" and one elected
executive (who may be referred to as the "mayor") who is
elected at large.

(2) The executive shall:

- (a) enforce laws, ordinances, and resolutions;
 - (b) perform duties required of him by law, ordinance,
or resolution;
 - (c) administer affairs of the local government;
 - (d) carry out policies established by the commission;
 - (e) recommend measures to the commission;
 - (f) report to the commission on the affairs and
financial condition of the local government;
 - (g) execute bonds, notes, contracts, and written
obligations of the commission, subject to the approval of
the commission;
 - (h) report to the commission as the commission may
require;
 - (i) attend commission meetings and may take part in
discussions;
 - (j) execute the budget adopted by the commission;
 - (k) appoint, with the consent of the commission, all
members of boards; except, the executive may appoint without
the consent of the commission temporary advisory committees
established by the executive.
- (3) The plan of government submitted to the qualified
electors shall further define the structural characteristics
of the form by including one item from each of the choices
listed below:
- (a) The executive:

REFERENCE BILL

1 (i) shall appoint one or more administrative
2 assistants to assist him in the supervision and operation of
3 the local government. Such administrative assistants shall
4 be answerable solely to the executive; or

5 (ii) may appoint one or more administrative assistants
6 to assist him in the supervision and operation of the local
7 government. Such administrative assistants shall be
8 answerable solely to the executive.

9 (b) The executive may:

10 (i) appoint and remove all employees of the local
11 government; or

12 (ii) appoint and remove, with the consent of a majority
13 of the commission, all employees of the local government; or

14 (iii) appoint, with the consent of a majority of the
15 commission, all department heads. The executive may remove
16 department heads and may appoint and remove all other
17 department employees; or

18 (iv) appoint and remove, with the consent of a majority
19 of the commission, all department heads. The executive may
20 appoint and remove all other employees of the local
21 government.

22 (c) The executive may:

23 (i) veto ordinances and resolutions, subject to
24 override by a majority plus one of the whole number of the
25 commission; or

1 (ii) veto ordinances and resolutions, subject to
2 override by a two-thirds vote of the commission; or

3 (iii) sign all ordinances and resolutions with no veto
4 power.

5 (d) The executive may:

6 (i) prepare the budget and present it to the
7 commission for adoption; or

8 (ii) prepare the budget in consultation with the
9 commission and department heads.

10 (e) The executive may:

11 (i) exercise control and supervision of the
12 administration of all departments and boards; or

13 (ii) exercise control and supervision of all
14 departments and boards to the degree authorized by ordinance
15 of the commission.

16 (f) A financial officer (who may be called the
17 "treasurer"):

18 (i) shall be elected; or

19 (ii) shall be appointed by the executive with the
20 consent of the council; or

21 (iii) shall be selected as provided by ordinance; or

22 (iv) may, at the discretion of the commission, be
23 selected as provided by ordinance.

24 (g) The commission shall be:

25 (i) elected at large; or

1 (ii) elected by districts in which candidates must
2 reside and which are apportioned by population; or

3 ~~(iii) nominated by districts in which candidates must~~
4 ~~reside and which are apportioned by population, but elected~~
5 ~~at large elected at large and nominated by a plan of~~
6 ~~nomination that may not preclude the possibility of the~~
7 ~~majority of the electors nominating candidates for the~~
8 ~~majority of the seats on the commission from persons~~
9 ~~residing in the district or districts where the majority of~~
10 ~~the electors reside; or~~

11 (iv) elected by any combination of districts in which
12 candidates must reside and which are apportioned by
13 population, and at large.

14 (h) Local government elections shall be conducted on
15 a:

16 (i) partisan basis as provided in this title; or

17 (ii) nonpartisan basis as provided in this title.

18 (i) The commission shall have a chairman who shall be:

19 (i) elected by the members of the commission from
20 their own number for a term established by ordinance; or

21 (ii) selected as provided by ordinance.

22 (j) The presiding officer of the commission shall be:

23 (i) the chairman of the commission who may vote as
24 other members of the commission; or

25 (ii) the executive who may vote as the commissioners;

1 or

2 (iii) the executive who shall decide all tie votes of
3 the commission, but shall have no other vote. The chairman
4 of the commission shall preside if the executive is absent;
5 or

6 (iv) the executive, but he may not vote.

7 (k) Commission members shall be elected for:

8 (i) concurrent terms of office; or

9 (ii) overlapping terms of office.

10 (l) The size of the commission, which shall be a
11 number not less than three (3), shall be established when
12 the form is adopted by the voters, and;

13 (i) community councils of at least three (3) members
14 shall be elected within each district to advise the
15 commissioner from that district. Local governments conducting
16 elections at large shall district according to population
17 for the purpose of electing community councils; or

18 (ii) community councils to advise commissioners may be
19 authorized by ordinance.

20 (m) The term of office of elected officials may not
21 exceed four (4) years, and shall be established when the
22 form is adopted by the voters.

23 (4) The plan of government submitted to the qualified
24 electors shall determine the powers of the local government
25 unit by authorizing:

(a) general government powers; or

(b) self-government powers."

Section 2. Section 47A-3-204, R.C.M. 1947, is amended to read as follows:

"47A-3-204. Commission-manager form. (1) The commission-manager form (which may be called the "council-manager" form) consists of an elected commission (which may be called the "council") and a manager appointed by the commission who shall be the chief administrative officer of the local government. The manager shall be responsible to the commission for the administration of all local government affairs placed in his charge by law, ordinance, or resolution.

(2) The manager shall be appointed by the commission for an indefinite term on the basis of merit only, and removed only by a majority vote of the whole number of the commission.

(3) The manager shall:

(a) enforce laws, ordinances, and resolutions;

(b) perform the duties required of him by law, ordinance, or resolution;

(c) administer the affairs of the local government;

(d) direct, supervise, and administer all departments, agencies and offices of the local government unit except as otherwise provided by law or ordinance;

(e) carry out policies established by the commission;

(f) prepare the commission agenda;

(g) recommend measures to the commission;

(h) report to the commission on the affairs and financial condition of the local government;

(i) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;

(j) report to the commission as the commission may require;

(k) attend commission meetings and may take part in the discussion, but he may not vote;

(l) prepare and present the budget to the commission for its approval and execute the budget adopted by the commission;

(m) appoint, suspend, and remove all employees of the local government except as otherwise provided by law or ordinance. Employees appointed by the manager and his subordinates shall be administratively responsible to the manager;

(n) appoint members of temporary advisory committees established by the manager.

(4) Neither the commission nor any of its members may dictate the appointment or removal of any employee whom the manager or any of his subordinates are empowered to appoint.

(5) Except for the purpose of inquiry or investigation under this title, the commission or its members shall deal with the local government employees who are subject to the direction and supervision of the manager, solely through the manager, and neither the commission nor its members may give orders to any such employee, either publicly or privately.

(6) The plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including one item from each of the choices listed below:

(a) All members of boards, other than temporary advisory committees established by the manager, shall be appointed by:

(i) the chairman with the consent of the commission; or

(ii) the manager with the consent of the commission; or

(iii) the commission.

(b) The commission shall be:

(i) elected at large; or

(ii) elected by districts in which candidates must reside and which are apportioned by population; or

~~(iii) nominated by districts in which candidates must reside and which are apportioned by population; but elected at large~~ elected at large and nominated by a plan of nomination that may not preclude the possibility of the

~~majority of the electors nominating candidates for the majority of the seats on the commission from persons residing in the district or districts where the majority of the electors reside; or~~

(iv) elected by any combination of districts in which candidates must reside and which are apportioned by population, and at large.

(c) Local government elections shall be conducted on a:

(i) partisan basis as provided in this title; or

(ii) nonpartisan basis as provided in this title.

(d) The chairman of the commission shall be:

(i) elected by the members of the commission from their own number for a term established by ordinance; or

(ii) elected by the qualified electors for a term of office; or

(iii) selected as provided by ordinance.

(e) Commission members shall be elected for:

(i) concurrent terms of office; or

(ii) overlapping terms of office.

(f) The size of the commission, which shall be a number of not less than three (3), shall be established when the form is adopted by the voters, and:

(i) community councils of at least three (3) members shall be elected within each district to advise the

1 commissioner from that district. Local governments
 2 conducting elections at-large shall district⁶ according to
 3 population for the purpose of electing community councils;
 4 or

5 (ii) community councils to advise commissioners may be
 6 authorized by ordinance.

7 (g) The term of office of elected officials may not
 8 exceed four (4) years, and shall be established when the
 9 form is adopted by the voters.

10 (7) The plan of government submitted to the qualified
 11 electors shall determine the powers of the local government
 12 unit by authorizing:

- 13 (a) general government powers; or
- 14 (b) self-government powers."

15 Section 3. Section 47A-3-205, R.C.M. 1947, is amended
 16 to read as follows:

17 "47A-3-205. Commission form. (1) The commission form
 18 consists of an elected commission (which may also be called
 19 the "council") and other elected officers as provided in
 20 this section. All legislative, executive, and
 21 administrative powers and duties of the local government not
 22 specifically reserved by law or ordinance to other elected
 23 officers shall reside in the commission. The commission
 24 shall appoint the heads of departments and other employees,
 25 except for those appointed by other elected officials.

1 Cities and towns which adopt this form may distribute by
 2 ordinance the executive and administrative powers and duties
 3 into departments headed by individual commissioners.

4 (2) The plan of government submitted to the qualified
 5 electors shall further define the structural characteristics
 6 of the form by including one item from each of the choices
 7 listed below:

8 (a) The commission shall be:

- 9 (i) elected at large; or
- 10 (ii) elected by districts in which candidates must
 11 reside and which are apportioned by population; or

12 ~~(iii) nominated--by--districts--in--which--candidates--must~~
 13 ~~reside--and--which--are--apportioned--by--population--but--elected~~
 14 ~~at--large elected at large and nominated by a plan of~~
 15 ~~nomination that may not preclude the possibility of the~~
 16 ~~majority of the electors nominating candidates for the~~
 17 ~~majority of the seats on the commission from persons~~
 18 ~~residing in the district or districts where the majority of~~
 19 ~~the electors reside; or~~

20 (iv) elected by any combination of districts in which
 21 candidates must reside and which are apportioned by
 22 population, and at large.

23 (b) Local government elections shall be conducted on
 24 a:

- 25 (i) partisan basis as provided in this title; or

(ii) nonpartisan basis as provided in this title.

(c) The chairman of the commission, who may be referred to as the "mayor", shall be the presiding officer of the commission. All members of boards and committees shall be appointed by the chairman with the consent of the commission. The chairman shall be recognized as the head of the local government unit and may vote as other members of the commission. The chairman shall be:

(i) elected by the members of the commission from their own number for a term established by ordinance; or

(ii) selected as provided by ordinance; or

(iii) elected directly by the voters for a term established by ordinance.

(d) The commission:

(i) shall appoint one or more administrative assistants to assist them in the supervision and operation of the local government; or

(ii) may appoint one or more administrative assistants to assist them in the supervision and operation of the local government.

(e) Commission members shall be elected for:

(i) concurrent terms of office; or

(ii) overlapping terms of office.

(f) The size of the commission, which shall be a number of not less than three (3), shall be established when

the form is adopted by the voters, and:

(i) community councils of at least three (3) members shall be elected within each district to advise the commissioner from that district. Local governments conducting elections at-large shall district according to population for the purpose of electing community councils; or

(ii) community councils to advise commissioners may be authorized by ordinance.

(g) The term of office of elected officials may not exceed four (4) years, except the term of office for commissioners in counties adopting the form authorized by Article XI, section 3 (2), of the Montana constitution, may not exceed six (6) years. Terms of office shall be established when the form is adopted by the voters.

(3) In county and consolidated local governments, the plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including one item from each of the choices listed below. The officers shall have the powers and duties established by ordinance. After the establishment of any office, the commission may consolidate, as provided by law, two or more of the offices.

(a) A legal officer (who may be called the "county attorney");

1 (i) shall be elected; or
 2 (ii) shall be appointed by the local government
 3 commission; or
 4 (iii) shall be appointed by the chairman of the local
 5 government commission; or
 6 (iv) shall be selected as provided by ordinance; or
 7 (v) may at the discretion of the commission be
 8 selected as provided by ordinance; or
 9 (vi) shall not be included in this form as a separate
 10 office.
 11 (b) A law enforcement officer (who may be called the
 12 "sheriff"):
 13 (i) shall be elected; or
 14 (ii) shall be appointed by the local government
 15 commission; or
 16 (iii) shall be appointed by the chairman of the local
 17 government commission; or
 18 (iv) shall be selected as provided by ordinance; or
 19 (v) may at the discretion of the commission be
 20 selected as provided by ordinance; or
 21 (vi) shall not be included in this form as a separate
 22 office.
 23 (c) A clerk and recorder:
 24 (i) shall be elected; or
 25 (ii) shall be appointed by the local government

1 commission; or
 2 (iii) shall be appointed by the chairman of the local
 3 government commission; or
 4 (iv) shall be selected as provided by ordinance; or
 5 (v) may at the discretion of the commission be
 6 selected as provided by ordinance; or
 7 (vi) shall not be included in this form as a separate
 8 office.
 9 (d) A clerk of district court:
 10 (i) shall be elected; or
 11 (ii) shall be appointed by the local government
 12 commission; or
 13 (iii) shall be appointed by the chairman of the local
 14 government commission; or
 15 (iv) shall be selected as provided by ordinance; or
 16 (v) may at the discretion of the commission be
 17 selected as provided by ordinance; or
 18 (vi) shall not be included in this form as a separate
 19 office.
 20 (e) A treasurer:
 21 (i) shall be elected; or
 22 (ii) shall be appointed by the local government
 23 commission; or
 24 (iii) shall be appointed by the chairman of the local
 25 government commission; or

1 (iv) shall be selected as provided by ordinance; or
 2 (v) may at the discretion of the commission be
 3 selected as provided by ordinance; or
 4 (vi) shall not be included in this form as a separate
 5 office.
 6 (f) A surveyor:
 7 (i) shall be elected; or
 8 (ii) shall be appointed by the local government
 9 commission; or
 10 (iii) shall be appointed by the chairman of the local
 11 government commission; or
 12 (iv) shall be selected as provided by ordinance; or
 13 (v) may at the discretion of the commission be
 14 selected as provided by ordinance; or
 15 (vi) shall not be included in this form as a separate
 16 office.
 17 (g) A superintendent of schools:
 18 (i) shall be elected; or
 19 (ii) shall be appointed by the local government
 20 commission; or
 21 (iii) shall be appointed by the chairman of the local
 22 government commission; or
 23 (iv) shall be selected as provided by ordinance; or
 24 (v) may at the discretion of the commission be
 25 selected as provided by ordinance; or

1 (vi) shall not be included in this form as a separate
 2 office.
 3 (h) An assessor:
 4 (i) shall be elected; or
 5 (ii) shall be appointed by the local government
 6 commission; or
 7 (iii) shall be appointed by the chairman of the local
 8 government commission; or
 9 (iv) shall be selected as provided by ordinance; or
 10 (v) may at the discretion of the commission be
 11 selected as provided by ordinance; or
 12 (vi) shall not be included in this form as a separate
 13 office.
 14 (i) A coroner:
 15 (i) shall be elected; or
 16 (ii) shall be appointed by the local government
 17 commission; or
 18 (iii) shall be appointed by the chairman of the local
 19 government commission; or
 20 (iv) shall be selected as provided by ordinance; or
 21 (v) may at the discretion of the commission be
 22 selected as provided by ordinance; or
 23 (vi) shall not be included in this form as a separate
 24 office.
 25 (j) A public administrator:

1 (i) shall be elected; or
 2 (ii) shall be appointed by the local government
 3 commission; or
 4 (iii) shall be appointed by the chairman of the local
 5 government commission; or
 6 (iv) shall be selected as provided by ordinance; or
 7 (v) may at the discretion of the commission be
 8 selected as provided by ordinance; or
 9 (vi) shall not be included in this form as a separate
 10 office.
 11 (k) An auditor:
 12 (i) shall be elected; or
 13 (ii) shall be appointed by the local government
 14 commission; or
 15 (iii) shall be appointed by the chairman of the local
 16 government commission; or
 17 (iv) shall be selected as provided by ordinance; or
 18 (v) may at the discretion of the commission be
 19 selected as provided by ordinance; or
 20 (vi) shall not be included in this form as a separate
 21 office.
 22 (4) Local governments that adopt this form shall have
 23 general government powers."
 24 Section 4. Section 47A-3-206, R.C.M. 1947, is amended
 25 to read as follows:

1 "47A-3-206. Commission-chairman form. (1) The
 2 commission-chairman form consists of an elected commission
 3 (which may also be referred to as the "council"), and a
 4 commission chairman (who may also be referred to as "mayor"
 5 or as "president") elected by the members of the commission
 6 from their own number.
 7 (2) The commission chairman (who may also be referred
 8 to as "mayor") shall be elected by the members of the
 9 commission from their own number to serve at the pleasure of
 10 the commission. He shall: be the presiding officer of the
 11 commission, be recognized as the head of the local
 12 government unit, have the power to vote as other members of
 13 the commission, be the chief executive officer of the local
 14 government, and:
 15 (a) enforce laws, ordinances, and resolutions;
 16 (b) perform duties required of him by law, ordinance,
 17 or resolution;
 18 (c) administer the affairs of the local government;
 19 (d) direct, supervise, and administer all departments,
 20 agencies, and offices of the local government, except as
 21 otherwise provided by law or ordinance;
 22 (e) carry out policies established by the commission;
 23 (f) prepare the commission agenda;
 24 (g) recommend measures to the commission;
 25 (h) report to the commission on the affairs and

1 financial condition of the local government;

2 (i) execute bonds, notes, contracts, and written

3 obligations of the commission, subject to the approval of

4 the commission;

5 (j) report to the commission as the commission may

6 require;

7 (k) attend commission meetings and may take part in

8 discussions;

9 (l) execute the budget adopted by the commission;

10 (m) appoint with the consent of the commission all

11 members of boards and committees; except the chairman may

12 appoint without the consent of the commission temporary

13 advisory committees established by the chairman;

14 (n) appoint with the consent of a majority of the

15 commission all department heads. The chairman may remove

16 department heads and may appoint and remove all other

17 employees;

18 (o) prepare the budget and present it to the

19 commission for adoption;

20 (p) exercise control and supervision over the

21 administration of departments and boards.

22 (3) The plan of government submitted to the qualified

23 electors shall further define the structural characteristics

24 of the form by including one item from each of the choices

25 listed below:

1 (a) The commission shall be:

2 (i) elected at large; or

3 (ii) elected by districts in which candidates must

4 reside and which are apportioned by population; or

5 ~~(iii) nominated by districts in which candidates must~~

6 ~~reside and which are apportioned by population, but elected~~

7 ~~at large elected at large and nominated by a plan of~~

8 ~~nomination that may not preclude the possibility of the~~

9 ~~majority of the electors nominating candidates for the~~

10 ~~majority of the seats on the commission from persons~~

11 ~~residing in the district or districts where the majority of~~

12 ~~the electors reside; or~~

13 (iv) elected by any combination of districts in which

14 candidates must reside and which are apportioned by

15 population, and at large.

16 (b) Local government elections shall be conducted on

17 a:

18 (i) partisan basis as provided in this title; or

19 (ii) nonpartisan basis as provided in this title.

20 (c) The commission chairman:

21 (i) shall appoint one or more administrative

22 assistants to assist him in the supervision and operation of

23 the local government. Such administrative assistants shall

24 be answerable solely to the chairman; or

25 (ii) may appoint one or more administrative assistants

1 to assist him in the supervision and operation of the local
2 government. Such administrative assistants shall be
3 answerable solely to the chairman.

4 (d) Commission members shall be elected for:

5 (i) concurrent terms of office; or

6 (ii) overlapping terms of office.

7 (e) The size of the commission, which shall be a
8 number of not less than five (5), shall be established when
9 the form is adopted by the voters, and:

10 (i) community councils of at least three (3) members
11 shall be elected within each district to advise the
12 commissioner from that district. Local governments
13 conducting elections at-large shall district according to
14 population for the purpose of electing community councils;
15 or

16 (ii) community councils to advise commissioners may be
17 authorized by ordinance.

18 (f) The term of office of elected officials may not
19 exceed four (4) years, and shall be established when the
20 form is adopted by the voters.

21 (4) The plan of government submitted to the qualified
22 electors shall determine the powers of the local government
23 unit by authorizing:

24 (a) general government powers; or

25 (b) self-government powers."

1 Section 5. Section 47A-3-208, R.C.M. 1947, is amended
2 to read as follows:

3 "47A-3-208. Charter form. (1) The purpose of this
4 section is to comply with Article XI, section 5 (1), of the
5 Montana constitution, which provides: "(1) The legislature
6 shall provide procedures permitting a local government unit
7 or combination of units to frame, adopt, amend, revise, or
8 abandon a self-government charter with the approval of a
9 majority of those voting on the question. The procedures
10 shall not require approval of a charter by a legislative
11 body."

12 (2) Charter provisions establishing executive,
13 legislative, and administrative structure and organization
14 are superior to statutory provisions.

15 (3) A charter form of government shall possess
16 self-government powers.

17 (4) Charter form of government shall be established by
18 a charter which is a written document defining the powers,
19 structures, privileges, rights, and duties of the unit of
20 local government and limitations thereon.

21 (5) The charter shall provide for an elected
22 legislative body, called a commission or council, or shall
23 provide for a legislative body comprised of all qualified
24 electors. For elected legislative bodies the charter shall
25 specify the number of members thereof, their term of office,

1 election on a partisan or nonpartisan basis, the grounds for
2 their removal, and the method for filling vacancies.

3 (6) The charter shall provide for the nomination and
4 election of commissions at-large, or by districts in which
5 candidates must reside and which are apportioned by
6 population, or by a combination of districts in which
7 candidates must reside and which are apportioned by
8 population and at large or elected at large and nominated by
9 a plan of nomination that may not preclude the possibility
10 of the majority of the electors nominating candidates for
11 the majority of the seats on the commission from persons
12 residing in the district or districts where the majority of
13 the electors reside.

14 (7) The charter shall specify which official of the
15 local government will be the chief administrative and
16 executive officer, the method of his selection, his term of
17 office, except that it may be at the pleasure of the
18 selecting authority if such officer is not elected by
19 popular vote, the grounds for his removal, and his powers
20 and duties. Notwithstanding the foregoing, the charter may
21 allocate the chief executive and the chief administrative
22 functions among two or more officials specified as above, or
23 the charter may provide that chief executive and
24 administrative functions of the local government will be
25 performed by one or more members of the legislative body.

1 (8) The charter may establish other legislative,
2 administrative, and organizational structures.

3 (9) A charter form of government shall have such
4 officers, departments, boards, commissions, and agencies as
5 are established in the charter, by local ordinance, or
6 required by state law.

7 (10) Charter provisions may not conflict with the
8 provisions of Title 47-A, Part 7 which establish statutory
9 limitations on the powers of self-government units.

10 (11) Charter forms are subject to state laws
11 establishing election, initiative and referendum procedures
12 and charters shall not contain provisions establishing
13 election, initiative and referendum procedures.

14 (12) The charter shall not contain provisions
15 establishing or modifying local court systems.

16 (13) The enumeration of powers in a charter shall not
17 be construed as a limitation or prohibition on the residual
18 or self-governing powers granted by the constitution.

19 (14) The charter may contain prohibitions on the
20 exercise of power by a unit of local government.

21 (15) The charter may include such provisions as may be
22 necessary to permit an orderly transition to the new form of
23 government.

24 (16) The charter shall specify the date on which the
25 charter will take effect, except that provisions may be made

1 for temporary partial effectiveness consistent with an
2 orderly transition of government.

3 (17) The listing of charter provisions in this section
4 shall not be construed to prevent the inclusion of
5 additional provisions in charters.

6 (18) A charter may be amended only as provided by state
7 law."

-End-